

BILL ANALYSIS

C.S.H.B. 2548
By: Burkett
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Finance Commission of Texas is the governing board for three agencies: the Office of Consumer Credit Commissioner, the Texas Department of Banking, and the Department of Savings and Mortgage Lending. Interested parties note that the finance commission also serves as a policy-making and oversight body but generally grants its enforcement authority to one of the other three agencies, which have staff to investigate violations and legal departments to bring enforcement actions. Interested parties report that the finance commission currently possesses the authority to enforce any miscellaneous provisions relating to the imposition of a surcharge for the use of a credit card; however, the finance commission has no investigation staff or legal department to assist it in exercising such authority. C.S.H.B. 2548 seeks to remedy this situation by vesting the finance commission's authority to enforce such provisions with the consumer credit commissioner.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2548 amends the Finance Code to transfer from the Finance Commission of Texas to the consumer credit commissioner the exclusive jurisdiction to enforce statutory provisions prohibiting the imposition of a surcharge for the use of a credit card and makes conforming changes. The bill clarifies that the finance commission may adopt rules relating to the enforcement of such a prohibition.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2548 may differ from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 339.001, Finance Code, is amended.	SECTION 1. Substantially the same as introduced version

No equivalent provision.

SECTION 2. Section 14.101, Finance Code, is amended to read as follows:
Sec. 14.101. GENERAL DUTIES OF COMMISSIONER. The commissioner shall enforce Section 339.001, this chapter, Subtitles B and C of Title 4, Chapter 393 with respect to a credit access business, and Chapter 394 in person or through an assistant commissioner, examiner, or other employee of the office.

SECTION 2. Section 14.201, Finance Code, is amended.

SECTION 3. Substantially the same as introduced version.

SECTION 3. Section 14.2015(a), Finance Code, is amended.

SECTION 4. Substantially the same as introduced version.

SECTION 4. Section 14.251(b), Finance Code, is amended.

SECTION 5. Substantially the same as introduced version.

No equivalent provision.

SECTION 6. Section 14.261(a), Finance Code, is amended to read as follows:
(a) In administering this chapter, the commissioner may accept assurance of voluntary compliance from a person who is engaging in or has engaged in an act or practice in violation of:
(1) Section 339.001;
(2) this chapter or a rule adopted under this chapter;
(3) ~~[(2)]~~ Chapter 393, if the person is a credit access business, or Chapter 394; or
(4) ~~[(3)]~~ Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

No equivalent provision.

SECTION 7. Section 14.262, Finance Code, is amended to read as follows:
Sec. 14.262. EFFECT OF ASSURANCE.
(a) An assurance of voluntary compliance is not an admission of a violation of:
(1) Section 339.001;
(2) this chapter or a rule adopted under this chapter;
(3) ~~[(2)]~~ Chapter 393 with respect to a credit access business or Chapter 394; or
(4) ~~[(3)]~~ Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.
(b) Unless an assurance of voluntary compliance is rescinded by agreement or voided by a court for good cause, a

subsequent failure to comply with the assurance is prima facie evidence of a violation of:

- (1) Section 339.001;
- (2) this chapter or a rule adopted under this chapter;
- (3) ~~(2)~~ Chapter 393 with respect to a credit access business or Chapter 394; or
- (4) ~~(3)~~ Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

No equivalent provision.

SECTION 8. The change in law made by this Act applies only to a violation of Section 339.001, Finance Code, as amended by this Act, that occurs on or after the effective date of this Act. A violation that occurs before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION 9. To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5. This Act takes effect September 1, 2013.

SECTION 10. Same as introduced version.